

Remarks:

The Examiner rejected Claims 1 and 2 under U.S.C. 102(b) as being anticipated by Karon. Under U.S.C. 103(a) the Examiner further rejected Claim 8 as being unpatentable over Karon in view of Gruenberg et al., and Claims 9 and 10 as being unpatentable over Karon in view of Fenley, Jr. In response the Applicant has withdrawn Claims 1, 2, and 8-10.

The Examiner indicated that Claims 3 - 7 would be allowable if re-written to include the base claim and any intervening claims. In response the Applicant has re-written Claims 3 and 4 as independent claims. Claims 5 - 7 depend from Claim 4.

The Examiner objected to Claim 3 for lack of antecedent for "said marking elements." Claim 3 as amended now provides the proper antecedent basis for the term "at least one marking element." Claim 4 has also been amended to be consistent with this terminology.

During revisions the Applicant noticed a typographical error as well in Claim 4 that was corrected as follows:

"..... said at least one marking element in an inoperative position not extending beyond said protective element, while in an operative position ~~device~~ in which said at least one portion is displaced, said at least one marking element extends beyond said protective element."

The Applicant respectfully submits that on its face the error is plain and that the amended claim accords with similar language in Claim 3 wherein the claim distinguishes between an inoperative position and an operative position. The Applicant therefore respectfully requests acceptance of this amendment.

In Claim 7 the Examiner wonders if "friction" would be a more proper term than "drag." In the amended Claim 7 "friction" is substituted for "a low coefficient of drag." The Examiner has correctly interpreted the invention such that the role of the protective element is to provide friction to resist inadvertent movement of the device during use.

The Examiner rejected Claim 7 under U.S.C. 112 as being not enabled in the specification such that a person skilled in the art could reproduce it. The Applicant respectfully submits that at paragraph [0016] of the published application the phrase "law coefficient drag", is plainly a typographical error that should read "low coefficient of drag". When read in the context of [0016] "to prevent inadvertent movement of the device", the Applicant respectfully submits that the original specification supports the amendment of the specification and Claim 7 to substitute the word "friction".

Summary:

The Applicant has made an earnest effort to be fully responsive to the Examiner's objections and believes that Claims 3 - 7 are now in condition for allowance. The applicant solicits the allowance of Claims 3 - 7.

If, however, the Examiner should for any reason consider this application not to be in condition for allowance he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Respectfully submitted,

Bob Kallio

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The device further has a handle which is identified with reference numeral 8. The handle is located at an end which is opposite to the end provided with the marking elements 3. Finally, the device can be provided with a continuous silicone layer 9 extending over a perimeter of a lower surface of the body 1, or discrete silicone pads 9' attached in certain points to the lower surface of the device. In the inoperative position the marking elements 3 do not extend beyond the layer 9 or the pads 9'. However, when the area 10 is pressed the marking elements 3 are extended beyond the layer 9 or the pad 9' for marking purposes.

It is to be understood that the layer 9 or the pads 9' can be composed of another material which prevents scratching of corresponding surfaces and provides friction a-law ~~efficient drag~~ to prevent inadvertent movement of the device.

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The device operates in the following manner.

When it is necessary to accurately determine the exact position of a picture, or a similar wall mounted object to be placed on any wall or hanging surface, a picture is hung on any of the extending buttons 2. A person holding onto the handle 8 then positions the device, together with the picture, against the hanging surface at exactly the location that the picture is intended to be hung. When the exact location is chosen, the picture is removed and one or more areas 10 are depressed. This action causes the marking element 3 to mark the hanging surface, marking the exact location in which a picture hanging member,